

02.02.2023
Sl. No.9
akd
[Rejected]

C. R. M. (NDPS) 57 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 09.01.2023 in connection with Bagdah Police Station Case No.162 of 2022 dated 28.02.2022 under Section 21(c) of the NDPS Act.

And

In Re: ***Subhas Mondal***

... .. Petitioner

Mr. Samrat Goswami

... .. for the petitioner

Mr. Sanjay Bardhan
Mr. Palash Ch. Majhi

... .. for the State

Pursuant to our earlier direction, Investigating Officer is personally present before this court. His presence is noted and dispensed with.

It is submitted on behalf of the petitioner that he has been falsely implicated in the instant case. It is further submitted signature of the petitioner does not appear in the seizure memo. One Bare Das who was involved in dealing with narcotics has been discharged.

In view of the aforesaid submission, report was called for. Report has been submitted on behalf of the State.

We have considered the materials on record including the report. Consignment of 200 bottles of *phensedyl syrup* was seized from the petitioner by BSF personnel. This fact is clear from the report submitted by BSF officials. In the said report, there is reference to one Bare Das of Village: Daspara. Inadvertently, he was not cited as an accused in the FIR. Subsequently, investigation reveals that no one by such name resides in the locality.

Be that as it may, complicity of the petitioner in transporting narcotics across the international border is evident from the report of

BSF personnel, their statements recorded during investigation and the arrest memo. In the backdrop of such overwhelming materials on record, absence of signature in the seizure memo does not prima facie improbabilise the prosecution case.

In view of the aforesaid circumstances and statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

The application for bail is thus **rejected**.

Trial court is directed to consider the issue of framing of charge along with the prayer for discharge of the petitioner and take appropriate decision in the matter within two months from the next date fixed for recording evidence without granting unnecessary adjournments to either of the parties.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)